

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN M.,

Plaintiff, :

v.

**Case No. 2:23-cv-2717
Chief Judge Sarah D. Morrison
Magistrate Judge Caroline Gentry**

**COMMISSIONER OF
SOCIAL SECURITY, :**

Defendant.

ORDER

Plaintiff brings this action under 42 U.S.C. § 405(g) for review of a final decision of the Commissioner of Social Security (“Commissioner”) denying his application for Social Security disability insurance benefits. (ECF No. 6.) Plaintiff filed his Statement of Errors on December 15, 2023. (ECF No. 9.) The Commissioner filed a Memorandum in Opposition. (ECF No. 11.) On August 30, 2024, the Magistrate Judge issued a Report and Recommendation, recommending that the Court grant Plaintiff’s Statement of Errors and reverse the Commissioner’s denial of benefits. (ECF No. 13.) The Commissioner timely filed Objections to the Magistrate Judge’s Report and Recommendation (ECF No. 14) and Plaintiff responded (ECF No. 15).

If a party objects within the allotted time to a report and recommendation, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28

U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The Court’s review “is limited to determining whether the Commissioner’s decision ‘is supported by substantial evidence and was made pursuant to proper legal standards.’” *Ealy v. Comm’r of Soc. Sec.*, 594 F.3d 504, 512 (6th Cir. 2010) (quoting *Rogers v. Comm’r of Soc. Sec.*, 486 F.3d 234, 241 (6th Cir. 2007)); *see also* 42 U.S.C. § 405(g) (“The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive . . .”).

The Court has carefully reviewed the record and concludes that the ALJ’s decision was not made pursuant to proper legal standards. The Court agrees with the Magistrate Judge that the RFC does not account for the state agency psychologists’ opined restriction to “superficial” interactions by dint of the ALJ’s definition of that term. The Court further agrees with the Magistrate Judge that the ALJ failed to explain why the psychologists’ opinion was not adopted.

The Commissioner objects to other portions of the Report and Recommendation, arguing that the Magistrate Judge raised issues *sua sponte* and without giving the Commissioner notice and an opportunity to respond. The Commissioner’s objection is well-taken, but does not change the outcome.

Accordingly, the Court **OVERRULES in part and SUSTAINS in part** the Commissioner’s Objections (ECF No. 14), and thus **ADOPTS in part and REJECTS in part** the Report and Recommendation (ECF No. 13). The

Commissioner's non-disability determination is **REVERSED** and this matter is **REMANDED** to the Social Security Administration under Sentence Four of 42 U.S.C. § 405(g) for further consideration consistent with this Order.

The Clerk is **DIRECTED** to **TERMINATE** this case.

IT IS SO ORDERED.

/s/ Sarah D. Morrison
SARAH D. MORRISON
CHIEF UNITED STATES DISTRICT JUDGE